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rendered on demurrer to the evidence, and plaintiff brings error. Affirmed.

O'Flaherty, Fulton & Byrd, of Richmond, for plaintiff in error.

E. P. Cox, of Richmond, and *W. B. McIlwaine* and *Bernard Mann*, both of Petersburg, for defendant in error.

CROWDER *v.* CROWDER et al.

June 12, 1919.

[99 S. E. 746.]

1. Appeal and Error (§ 80 (1)*)—Finality of Decree—Divorce Suit.—In suit for divorce on the ground of desertion and to set aside as fraudulent sale of property made by defendant husband to his brothers, decree held final to support an appeal, though the divorce prayed for had not been granted in terms, which in effect sustained plaintiff's claim that she was entitled to divorce for desertion, and found against her claim of fraud in the sale on the part of the buyers.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 438.]

2. Divorce (§ 276 (4)*)—Fraudulent Sale by Husband—Evidence.—In suit for divorce and to set aside as fraudulent a sale of defendant husband's property to his brothers, evidence held to show that the husband committed a fraud on the rights of his wife and child, and that his brothers participated therein, and aided and abetted him, so that the transfers were void under Code 1904, § 2458.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 221.]

3. Divorce (§ 276 (4)*)—Fraudulent Conveyance by Husband.—While fraud in sale of husband's property must be clearly proved by the wife, it is not necessary that it should be expressly shown.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 562; 14 Va.-W. Va. Enc. Dig. 490.]

4. Divorce (§ 275 (3)*)—Fraudulent Conveyances—Knowledge of Fraud.—Where the fraud of a husband, grantor in a deed or a seller of personalty, has been clearly shown, and it is sought to charge the grantee or purchaser with guilty knowledge, it is not necessary to prove his positive knowledge of the fraudulent intent, but sufficient to show knowledge on his part of facts and circumstances which would have excited the suspicion of a man of ordinary prudence and put him on inquiry.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 562.]

5. Divorce (§ 275 (2)*)—Transfer in Fraud of Wife—Statute.—Immediately on desertion entitling a wife to divorce and alimony, if there has been a breach of duty by the husband, and if he transfers

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

his property to another with intent to hinder, delay, or defraud the wife in the enforcement of her rights, such transfer is void under Code 1904, § 2458, whether or not she is a creditor in a technical sense.

6. Divorce (§ 276 (2)*)—Fraudulent Conveyances—Suit—Transferee of Notes as Party.—In a wife's suit for divorce and to set aside as fraudulent sale of property by defendant husband to his brothers, the wife's claim being against the property, though she was willing to take its value as agreed upon by notes given for it by the brothers to the husband, it was error to require the husband's transferee of the notes to come into the suit at all and defend; his claims and those of the wife being separate.

7. Courts (§ 99 (1)*)—Law of Case.—Refusal of an appeal from the action of the trial court in overruling the demurrer of two defendants to the bill settled the question adversely to defendant's claim, and became the law of the case, and cannot be again brought in question.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 646.]

8. Divorce (§ 276 (5)*)—Fraudulent Conveyances—Personal Decree Against Grantees.—On satisfactory proof of the participation of the grantees and purchasers in the fraud of the grantor and seller, it was competent for the court to have rendered a personal decree against them, in favor of the grantor's wife, suing him for divorce, for the amounts of their respective purchases, so that they were not injured by the decree requiring them to pay the amounts into court.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 676.]

Appeal from Circuit Court, Lunenburg County.

Suit for divorce and to set aside fraudulent conveyance by Lavonia Ruth Crowder, by, etc., against W. Scott Crowder and others. From the decree, complainant appeals. Reversed and remanded.

N. S. Turnbull, Jr., of Victoria, and *W. Moncure Gravatt*, of Blackstone, for appellant.

L. O. Wendenburg, of Richmond, *Geo. E. Allen*, of Victoria, and *W. R. Jones* and *L. S. Epes*, both of Blackstone, for appellee.

JOHNSON et al. v. LAKE DRUMMOND CANAL & WATER CO. et al.

June 12, 1919.

[99 S. E. 771.]

Eminent Domain (§ 319*)—Canal Franchise—Condition of Use by Abutting Owners—Abandonment with Consent of Commonwealth.—The right of free use by owners of abutting lands by Act Feb. 9,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.